

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE: Tony Ray Clouse)
Map 071-00-0, Parcel 186.00) Davidson County
Residential & Commercial Property)
Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$310,000	\$267,800	\$577,800	\$203,790

An appeal has been filed on behalf of the property owners with the State Board of Equalization on September 7, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated, §§ 67-5-1412, 67-5-1501 and 67-5-1505. A hearing was conducted on August 23, 2006 at the Davidson County Property Assessor's Office. Present at the hearing were Tony Ray Clouse, the taxpayer who represented himself, Glen Daniels, President of Middle Tennessee Manufacturers and Dean Lewis and Dennis Donovan, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a mobile home park located at 0 Brick Church Pike in Nashville, Tennessee.

The taxpayer, Mr. Clouse, contends that the property is worth \$400,000 based on the fact that 2/3 of the property is located in the floodplain. Mr. Clouse also testified that the mobile homes in his park are very old with a total value of \$70,000¹, far less than the values that Metro has them valued.

Mr. Lewis from Metro alleges that based on their analysis and classification of the list of mobile homes supplied to the county by the taxpayer, Mr. Clouse, his opinion of value is \$230,845. Mr. Lewis maintains that pursuant to Tenn. Code Ann. § 67-5-802(b)(1) & (2), Mr. Clouse has the responsibility to dispute the contentions of value established by the county board.

The issue is the value of the property as of January 1, 2005.

Mr. Clouse contends that the mobile homes are in such a condition that it would cost more to remove some of them from his lot than they are actually worth. Mr. Clouse alleges that the mobile home trailers are valued at \$94,750, significantly less than the

¹ It is interesting that while Mr. Clouse asserts such a low value in his testimony, the application shows he placed a value on the mobile homes at \$400,000.

county's values but he can only show pictures (taxpayer exhibit #1) of the trailers and testimony from Mr. Daniels.²

According to Mr. Clouse, the values are really estimated values because there is no documentation to back up the figures. However, the county has developed their values based on policy and procedures of the assessor's office.³

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values. . . ."

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$577,800 based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The taxpayer must demonstrate something to substantiate his estimates of value. While it is very commendable that the taxpayer is hesitate to pass on the cost of these assessments to his tenants as he has a right to do by statute, it does not negate his obligation to pay the assessment unless he can establish by clear and convincing evidence a different opinion of value. Mr. Clouse indicated that some of his tenants are on very low or fixed incomes and if the increase is passed on to them as the statute allows it would work an undue hardship on them.

Without appearing flippant or callous, their relief lies with Tenn. Code Ann. § 67-5-702 et seq., not with this administrative body.

With respect to the issue of market value, the administrative judge finds that Mr. Clouse simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). However, based on the county's present analyses a slight reduction is in order.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

² Mr. Daniels is the President of Middle Tennessee Manufacturers who has been in the mobile home business for 20 years. The taxpayer has three (3) different values for the mobile homes.

³ The assessor's office uses the *National Automobile Dealers Association* as an appraisal guide.

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$310,000	\$230,845	\$540,845	

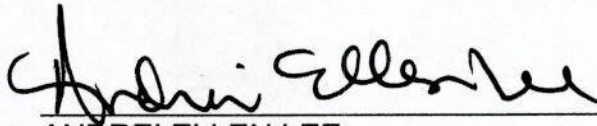
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 16th day of October, 2006.


 ANDREI ELLEN LEE
 ADMINISTRATIVE JUDGE
 TENNESSEE DEPARTMENT OF STATE
 ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Tony Ray Clouse
 Jo Ann North, Assessor of Property